

BLACKWELL GUARDS USE FISTS FREELY

So Inmates Tell Prison Commission—Some Men Got More Than Year.

ADJOURNMENT TILL AUG. 3

Seven prisoners in the penitentiary on Blackwell's Island testified before the State Commission of Prisons yesterday as to conditions at the prison of which they do not approve. Four of the keepers whom these prisoners charged with using clubs and fists too freely came right back with the admission that they had used clubs and fists and would do again when they thought it necessary. This attitude of the keepers is not pleasing to the commission.

Incidentally the commission listened upon a method employed to send men to the Island instead of to Sing Sing. Three of the prisoners alleged that Judge Rosalsky had sentenced them to long terms in the penitentiary on the ground that they were supposed to be one year. It was pointed out by Commissioners Hard and Wade that the sentence of a first offense is not to be indefinite. The man or boy in such cases, for he usually is scarcely out of his teens, might by good behavior and by appealing to a warden in sympathy with him get out of prison and become a good citizen. The commission is convinced that under the system by which men are sent to the penitentiary for long terms there is no chance of these men turning over a new leaf in life.

Long Prison Terms. This system is founded on the disciplinary penitentiary which a Judge has in cases of assault in the second degree. Upon conviction for that offense he may send a man either to Blackwell's or to Sing Sing. But if he sends him to Blackwell's he can give him a determinate sentence. In the three cases brought to the commission's attention yesterday Judge Rosalsky had meted out sentences of four years, six months and fines of \$1,000; in other words a sentence of nearly seven years. The contrast between this long term at Blackwell's Island and the indeterminate sentence to Sing Sing was commented on by the Commissioners and a recommendation touching upon it was made to the governor.

Charge of mistreatment at the hands of keepers turned out to be hardly worth investigation. No convict would say that he had been cruelly beaten and their stories of the use of clubs and fists agreed in general with those told by the guards. All the prisoners questioned protested against the kind of discipline that sends a man into solitary confinement to live on bread and water and to lose all his privileges for six weeks, merely because he breaks some petty rule of the prison. They talked about the inadequate facilities for washing clothing and about the lack of some other things that are not considered necessary in any well regulated penal institution.

As he left the stand the last witness said he confidently expected that the others who had testified would be in "solitary" before the end of the week.

Ironworker Tells Story.

One case which attracted special attention was that of a young iron moulder, sentenced to six months on the Island for hitting another man while he was intoxicated. It was his first offense, he said, and his clean cut appearance, steady eye and frankness of address immediately caught the notice of the commission. He said that he had been charged with a package of made cigarettes, only tobacco and papers are permitted in the prisons) was found in his cell and that he was put in "solitary" for ten days and even hours, getting only two slices of bread a day for food, because he would not tell who bought in the cigarettes. He said that his cellmate was not even questioned.

While he was in "solitary" Warden Hayes visited him once each day, asking on each occasion if he were ready to tell about the cigarettes. Commissioner Hurd said he thought there was something wrong with that kind of punishment and also with the idea of justice that sends a young, decent looking fellow to prison for six months just because he punched a man.

When one of the convict witnesses was asked why these things were permitted to continue when Commissioner Davis had said she did not approve of them, he replied:

"Why, Miss Davis? She don't know nothing about this place."

The commission adjourned to meet again in Albany on August 3. Warden Hayes, who was too ill to continue his testimony of last week, declined yesterday to discuss the announcement of Commissioner Davis that he is to retire from the penitentiary of a three months leave of absence.

"FLAGLER WIDOW" HELD.

Chicago Lawyer Whom She Sent For Doesn't Appear.

The woman who calls herself Mrs. Zora Emma Howe Flagler and is charged with obtaining \$4,425 from Frank J. Mayhew, a Chicago lawyer, on the pretense that she is the widow of Henry M. Flagler will get \$15,000 from his estate, waived execution by her, yesterday because she did not have enough money to hire a lawyer. She was held in \$5,000 bail for the Grand Jury by Magistrate McQuade.

A telegram received before the hearing from J. Edward Newberger, the Chicago lawyer who she said had frequently transacted business between her and Mr. Flagler, would not appear to prove her identity, expressing his sorrow for her predicament, but saying that he could come to New York only upon receipt of an advance fee of \$200. The prisoner told Deputy Assistant District Attorney Leoning, in charge of the case, that there was no use asking for an examination and he declined several persons connected with the Flagler estate who were there to testify.

The prosecutor intimated that other complaints would be brought against her, both under the name of "Mrs. Flagler" and that of Mrs. J. H. Johnson, as she was known in Washington. Papers were served on her yesterday morning in a suit by Brill Brothers, for \$500 alleged to be due for men's clothes she bought from them.

CURRAN IS ACTING MAYOR.

Mitchell and McNary Are Both at Camp Whitman.

New York has a curran—a Republican—Henry H. Curran, a chairman of the Board of Aldermen. He assumed the honor and duties of acting Mayor yesterday because Mayor Mitchell was at Camp Whitman, speechmaking, and George McNary, President of the Board of Aldermen, was there too. Mr. Curran is to be the acting Mayor until Monday when Mr. Mitchell will return to town after a Sunday spent on the Jersey coast. Mr. McNary will be away from town going to Lake George from the Plunkett estate.

This is the first time Alderman Curran has been acting Mayor and he makes the fourth Mayor the city has had in the past year.

BECKER APPLIES FOR NEW TRIAL SEES FORTH IN 11 AFFIDAVITS: OFFERS TO TESTIFY

Continued from First Page.

upon having read the affidavits and the application it is ordered that the People shall show cause next Monday morning at 10:30 why an order should not be made setting aside the conviction of Becker and granting a new trial on the ground of newly discovered evidence "and upon the further ground that upon a new trial evidence can be produced, such as, if before received upon the former trial would probably have changed the verdict, and for such other and further relief as to the court may seem just and proper."

The order was served upon District Attorney Perkins, who said that as he had not then read the affidavits, he was not unwise for him to discuss the situation.

One of the affidavits is from Becker himself. It is largely a review of the other affidavits, which he says contain new evidence which would have changed the verdict at his trial. There is an affidavit from Father Curry, feeling that Becker told him of Big Tim Sullivan two years ago, and that Big Tim Sullivan sent for Becker the Sunday night before the murder, when a conspiracy was being hatched, as Becker has described in his recent long statement; there is an affidavit from Joseph Murphy, now in Sing Sing, who swears that after Rosenthal was murdered and overheard Rosenthal, Becker and Vallon plotting to fasten the murder upon Becker.

Another affidavit, more startling than any, comes from Benny Kaufman, a cousin of Mrs. Rosenthal, who says that on Monday night, a few hours before the murder, Rosenthal told him that he was going around the Metropole to get \$15,000 from the gang "who don't want to be closed up," the inference being that Rosenthal was going to get the money from the gang. Rosenthal said that he was going to take this money and the next morning, when he was to meet District Attorney Whitman to complete his gambling revelations, he would be hundreds of miles away.

Says Rose Had Bribe Cash.

Another affidavit is from Edward C. Ginty, a former deputy sheriff of Danbury, Conn., who says that in the fall of 1913 Jack Rose told him the plan had been to try to bribe Rosenthal to leave town, and in case he refused, to kill him. Rosenthal told him that he was going around the Metropole to get \$15,000 from the gang "who don't want to be closed up," the inference being that Rosenthal was going to get the money from the gang.

Joseph Murphy, now in Sing Sing, who swears that after Rosenthal was murdered and overheard Rosenthal, Becker and Vallon plotting to fasten the murder upon Becker.

Isaac Cohen says that Becker once brought him a note of Big Tim Sullivan for \$2,500 to have it discounted, and John P. McIntyre and Martin Manton say that Becker never told them of the Big Tim Sullivan conference. Harford Marshall, first attorney for Bridge Weber, tells his story about his conversation with Becker when he was indicted that he planned to "deliver" Becker for the murder.

Application is made to have Harry M. Appelbaum, Big Tim Sullivan's attorney, sworn in as a witness, and Mr. Cohen said he thought it probable that Jack Rose would be called.

BECKER OFFERS OWN TESTIMONY TO COURT

Asserts Governor is Unable to Give Him Fair Hearing.

Most of Becker's affidavits are a review of the other affidavits. He says in part:

"I am not guilty of the offense for which I have been convicted. I now ask the court for a new trial on the ground of newly discovered evidence. Said evidence was not available at the time of my trial. It is not cumulative, and it had been produced before the jury the verdict in all probability would have been different."

Joseph Murphy, attached to the affidavit of said Murphy, was written to my counsel without any knowledge, solicitation or suggestion on my part. It was submitted by my counsel to the Governor, who informed said counsel a few days later that the said Murphy was not in the Tombs and that I had since had the record of the Tombs examined and I find that the said Murphy was actually a prisoner confined therein at the time that he states in his letter.

"The statements embodied in said Murphy's letter I believe to be absolutely true. The entire case against me has been fabricated by said Rose, Vallon and Weber. Just as the said Murphy heard the charges against me, in order to save himself from prosecution for the said crime, abundant evidence of their guilt being in the possession of the police, they made up the story of the said evidence, except the statements of these men that I had counselled them to commit the crime which they acknowledged having perpetrated."

Examination Offer. "If the facts embodied in the annexed statement addressed to the Governor had been proved on the trial it can hardly be doubted that I would have been acquitted. They would have shown that far from desiring Rosenthal's disappearance I was most anxious to prevent it, and that I had since had the record of the Tombs examined and I find that the said Murphy was actually a prisoner confined therein at the time that he states in his letter."

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TWENTY-SEVEN INVITED TO SEE BECKER EXECUTION WEDNESDAY

OSKINING, N. Y., July 23.—Warden Thomas Mott Osborn of Sing Sing prison issued twenty-seven invitations yesterday afternoon for the execution of former Police Lieutenant Charles Becker on Wednesday.

The list of invited guests includes Justice Clarence Shearn of the Supreme Court, District Attorney Perkins and Sheriff Griffenhagen of New York county.

Besides the three named, the jury to witness the execution will comprise four doctors, five citizens and fifteen newspaper men. Warden Osborn refused last night to make public the names of the doctors and citizens he has chosen.

many which I might have given at the second trial, but didn't produce, may not be accepted now as sufficient grounds to order a new trial, yet the court is asked to consider it in the light of other testimony, which is entirely new. And if all of it taken together would undoubtedly have changed the result, then to order that I have a new trial as the statute provides.

In view of the fact that there is not sufficient cause for the usual notice of motion, I ask that an order to show cause may be granted."

FATHER CURRY RELATES BECKER CONVERSATION

Gives the Big Tim Sullivan Story in Detail.

Father Curry, after reciting in his affidavit that he became Becker's spiritual adviser after the police lieutenant's arrest, said:

"Becker told me that he had been out all day Saturday previous to the murder and all Saturday night and that he was out all day Sunday too. As I have out all day yesterday and all night last night and all today, and I am too tired; I must get to bed and get a rest."

"The person at the other end of the wire insisted that he must come and see me. He would send his car for him. 'All right,' Becker said. 'I will wait for the car. I will take a bath and be ready by the time it reaches here.' When the car arrived Rose and Appelbaum were in it."

"They brought him to an office around West Sixtieth street and Broadway. I think it was one of Sullivan's. Sullivan brought him upstairs. I understood Becker to say one flight. The papers say two flights to the office in the back and there was a room about Rosenthal's coming appearance before the Grand Jury, and wished to know if there was any way in which Rosenthal could be prevented from testifying."

"Becker thereupon said: 'Neither you nor I have any right to fear from any disclosure whatever that Rosenthal will make. I know all that he is going to say. I know where his names his will come. Now, you see, I have a right to fear from him.' Sullivan said: 'It must be prevented. I couldn't stand for it.' No,' said Becker. 'You need have no fear at all. I haven't any.' After reassuring Sullivan that there was not any need of fear Becker returned home."

ROSENTHAL EXPECTED \$15,000, SAYS KAUFMAN

Relative of Gambler's Wife Tells of Murder Night Talk.

Benjamin H. Kaufman, for twenty years an attorney at law, and a relative of his wife, said in his affidavit that four hours before Rosenthal was shot he met the gambler on Broadway.

"I asked him what he meant and he said: 'I have an important engagement to-night at the Metropole to get \$15,000. I said, 'Who the hell is going to give you \$15,000?' and he said, 'I don't know. They are going to be all closed up. They would give me a hell of a lot of money before they would go out of business.'"

"He said further: 'You be up at my house at 4 o'clock because as soon as I get home I am going to beat it. The trunk are all packed and I am all ready to go, and I will fix you up before I leave. I will write you and let you know where I am and you can let me know everything that is going on. The papers say I am going to be at Whitman's office at 9 o'clock in the morning. But my appointment with Whitman is at 8 o'clock. I had so informed him. I will be several hundred miles from New York.'"

"I asked him if he was going home, and he said: 'No, if I go home she won't want me to go out again; and I asked him if I would go home and stay with Mrs. Rosenthal and he said, 'No, if you will only want to know where I am.'"

"My movements and Herman's movements and the various conversations had with Herman and set forth on Sunday and Monday were all told by me to Assistant District Attorney Moss in the presence of Assistant District Attorney Sullivan. I also told the whole story to Commissioner Dougherty and Inspector Hughes. Mr. Moss said he would have me go before the Grand Jury and I went to his office and told him the whole story before the Grand Jury."

"About a week before Herman was killed I asked Herman when he had last seen Jack Rose and he said, 'I have seen him for more than a week, but he is too smart; he dodges me, because if I could run across him I would kick his brains out and then be satisfied for the rest of my life.'"

"For more than three weeks before Herman was killed I was often with Herman and knew from what Herman told me that he was going to get the money from the gang. I was glad that he never met Rose when I was with him."

DAN THE DUDE TELLS OF THREAT BY WEBBER

Made to Doller John Langerman at Outing, He Alleges.

Louis Harris, known as Dan the Dude, with a prison record, a friend of Rosenthal and the four informers, said in his affidavit that on the Sunday following the murder he heard Bridge Weber say to Doller John Langerman:

"I had so informed him. I will be several hundred miles from New York." "I asked him if he was going home, and he said: 'No, if I go home she won't want me to go out again; and I asked him if I would go home and stay with Mrs. Rosenthal and he said, 'No, if you will only want to know where I am.'"

"My movements and Herman's movements and the various conversations had with Herman and set forth on Sunday and Monday were all told by me to Assistant District Attorney Moss in the presence of Assistant District Attorney Sullivan. I also told the whole story to Commissioner Dougherty and Inspector Hughes. Mr. Moss said he would have me go before the Grand Jury and I went to his office and told him the whole story before the Grand Jury."

"About a week before Herman was killed I asked Herman when he had last seen Jack Rose and he said, 'I have seen him for more than a week, but he is too smart; he dodges me, because if I could run across him I would kick his brains out and then be satisfied for the rest of my life.'"

"For more than three weeks before Herman was killed I was often with Herman and knew from what Herman told me that he was going to get the money from the gang. I was glad that he never met Rose when I was with him."

ON EVIDENCE OFFERS TO TESTIFY

I passed Vallon, Rose and Weber in the southeast corner talking, and they seemed much excited as I passed and I heard some one of them remark, 'We must frame Becker.'"

"I admit I was curious and the next time I passed I slipped into the bathroom, five or six feet from them, and listened."

"I don't know which one of the three said those words."

"We haven't a chance in the world unless we frame Becker up. According to the papers they seem to think Becker had something to do with the murder, because Rosenthal made that squeak, and it won't be hard to make the people believe that it is the truth."

"One of them then said, 'Hell, Big Tim won't stand for that. He knows Becker is not in it.' Some one said, 'Why, you damned fool, Tim sent Appelbaum or Appelbaum sent me. I am sure of his name, to tell me to get Steur or Stern to fix it up for us to keep Tim's name under cover and put it up to Becker. They can't convict an innocent man and we'll all get out.'"

"Just then I got up and saw it was Weber talking. They saw me and they walked to Rose's cell."

"If this will help them to make a deal, but at any rate, I've got it off my conscience."

HARFORD MARSHALL REPEATS AFFIDAVIT

Tells of "Frame-up" Story Negro Heard in the Tombs.

Harford Marshall, first attorney for Bridge Weber, repeats the affidavit he recently gave to "Chief Justice" William Bartlett of the Court of Appeals. The essentials of Mr. Marshall's affidavit are after Weber's writ of habeas corpus had been dismissed, Marshall met Weber in the Tombs. The affidavit continues:

"He appeared to be very much agitated and discouraged at the dismissal of the writ and he stated to me at that time, without ever having previously mentioned the name of Charles Becker to me."

"How had does Whitman want Becker?" and I said, "I do not know, what do you mean?" "He then asked: 'Would Whitman let me out if I delivered up Becker?' and I said: 'I do not know. Did Becker have anything to do with the murder?'"

"He said: 'No, but what can I do?' "I realized that it was his intention at that time to give some false testimony implicating Charles Becker in the murder of Herman Rosenthal in order to get out of the Tombs. He told me that I would not act further for him as his attorney and he requested me to telephone Max Steuer, a well known lawyer."

CRUX OF THE CASE, SAYS M. T. MANTON

Becker's Meeting with Big Tim Was News to Lawyer.

Martin T. Manton, who conducted Becker's second defense, said that he never heard of Becker's conference with Big Tim until recently when Father Curry told him Mr. Manton says further:

"The statement of Rose published by many newspapers in identical terms this morning, however, shows beyond all doubt Becker's statement in this respect is absolutely true. There can be no doubt, first, that the meeting between Rose, Appelbaum, Sullivan and Becker described in Becker's statement addressed to the Governor, and which is a part of these moving papers, actually took place, second, that it was at Sullivan's request, third, that Rose was a party to it, fourth, that the object and purpose was to persuade Rosenthal to refrain from making any further disclosures and to place himself beyond reach of a subpoena from the District Attorney. Becker's story that Jack Becker refused to have anything to do with the purpose to prevent Rosenthal from testifying, and represented to Sullivan that after what he had never suggested by the evidence, and consequently never was before the jury. Yet, if this last statement of Rose's is to be credited, it is the very crux of the prosecution."

"Inasmuch as the theory of the prosecution was that Rosenthal was to refrain from making any further disclosures and to place himself beyond reach of a subpoena from the District Attorney, Becker's story that Jack Becker refused to have anything to do with the purpose to prevent Rosenthal from testifying, and represented to Sullivan that after what he had never suggested by the evidence, and consequently never was before the jury. Yet, if this last statement of Rose's is to be credited, it is the very crux of the prosecution."

**TELLS OF \$5,000 LOAN
MADE BY BIG TIM**

Cohen Says He Was Unable to Get the Money for Rosenthal.

Isaac M. Cohen deposes that he was acquainted with Rosenthal, and a year before the murder Rosenthal asked him to discount a note for \$5,000, made by Rosenthal's order by Timothy D. Sullivan.

"Cohen said he kept the note for several days and tried to have it discounted, but could not, because there was no one to whom he applied said that all of Sullivan's enterprises were incorporated and he did not believe he had sufficient means in his own name to warrant the loan."

The note was then returned to Rosenthal, but he did not because there was no one to whom he applied said that all of Sullivan's enterprises were incorporated and he did not believe he had sufficient means in his own name to warrant the loan."

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One Minute, Mr. Man—

before you close your desk and hurry away this noon to the golf links, the sea shore or some other week-end engagement, let us whisper in your ear, two words—

Your Home

Your physical home, whether it be a big mansion or a little cottage in the country, a large or small house in the city, a big or little apartment—whatever and wherever it be—we shall have something to say to you about your home in connection with the

August Sale of Furniture

First Day of Courtesy, Tuesday, July 27

Take stock of your home. See what condition it is in physically. Does it need new furniture? Does it need new furnishings? Have you let it run down? Is it cheerful? Is it homey? Is it comfortable? Can you make it better and more cheerful in any way?

Our announcements on Monday morning and evening will concern YOUR home and show you how you can make it still happier.

JOHN WANAMAKER

Broadway at Ninth Street, New York

HELD IN RESTAURANT MURDER.

Three Italians Committed to Tombs

—Grand Jury Investigating.

Judge Crain of General Sessions yesterday committed to the Tombs Vincent Licata, Gaetano Romano, and Antonio Pollegioni, arrested recently on a charge of murdering Otto Zinn and two assistants, Roman Held and Stephen

Cumminew, in Zinn's restaurant at 16 Third avenue, on April 5. The Grand Jury at the same time began an investigation of the crime.

Inspector Faurot, Detectives Casato and Carraro, who arrested the men, Coroner's Physician McAllister and a chief at the restaurant appeared as witnesses before the Grand Jury. It is expected that the inquiry will be finished on Monday and a report made to Judge Rosalsky of General Sessions.

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A Watch After a Man's Own Heart

LA FORGE & VALEN- tine Watches are business like watches for business men.

Their possession is a business asset, their fine precision an aid to efficiency, their quiet elegance a sign of prosperity.

Made for 16 years exclusively for Macy's, they embody every technical improvement devised during that period. They are built (not assembled) in one factory. The cases are made to fit the works and the works are perfect in minutest detail.

Guaranteed for two years—twice as long as any other standard watch of well-known make. We sell the others—but we guarantee ours for double the usual time, because we know that they "can make" good on the strongest possible guarantee.

Although the equal in every essential of the best American and Swiss timepieces, La Forge & Valentine watches cost less than any other well-known watch of equal grade, thin model; choice of several artistic dials.

Macy's Main Floor, Broadway

14-kt. Gold

7 jewels, \$28.50;
\$33.50; 15 jewels, \$29.75-\$34.75; 17 jewels, \$32.50;
\$37.50; 21 jewels, \$50.25-\$55.25.

Gold Filled

(20 Yr. Quality)
15 jewels, \$11.49;
15 jewels, \$13.24;
17 jewels, \$15.24;
21 jewels, \$32.25.

Wool Bathing Suits
One Piece and Two Piece
\$1.98 and \$2.98
Worth \$3.00 & \$4.00

Leather Belts, \$1.00
Duck Trousers, \$1.00
Flannel Trousers, \$2.98
Leather Belts, \$1.00

22 Negligee Shirts at \$1.25
Samples of the Bates St. Shirt Co. Madras, Mercerized and Repp Cloth

Kennedy

"Greatest Men's Specialty Store."

Vacation Necessities—Little Prices

Wool Bathing Suits
One Piece and Two Piece
\$1.98 and \$2.98
Worth \$3.00 & \$4.00

Leather Belts, \$1.00
Duck Trousers, \$1.00
Flannel Trousers, \$2.98
Leather Belts, \$1.00

22 Negligee Shirts at \$1.25
Samples of the Bates St. Shirt Co. Madras, Mercerized and Repp Cloth

Our field is everything men and boys wear; also Sporting Goods of every description. But to-day we quit plowin' at 12 noon.

ROGERS PEET COMPANY
Broadway at 13th St. "The Four Corners" Fifth Ave. at 41st St.
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Greatest Musical Show Ever Produced in the Coolest Theatre in the World.

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After the success of the ZIEGFELD MIDNIGHT FOLLIES.

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D. W. GRIFFITH'S
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